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OFFICE OF PETITIONS

In re Application of
Smith et al.
Application No. 09/942,757
Filed: August 30, 2001
Attorney Docket No. AUS920010459US1

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ON PETITION

This is a decision on the "Petition to Reset Time Period for Response to Office Action of January 6, 2005", filed on November 1, 2005. The petition will be treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED**.

The record reflects that on January 6, 2005, a non-final Office action was mailed to an address other than the designated correspondence address of record. Due to a clerical error, the USPTO changed the correspondence address of record to that of Sidney Weatherford. The instant petition was filed on November 1, 2005, after petitioner checked the PAIR system and realized that the non-final Office action has been sent to an incorrect address. Petitioner also filed a reply to the non-final Office action.

A review of the subject application file reveals that the application was abandoned by operation of law on April 7, 2005, for failure to respond to the non-final Office action, notwithstanding the failure of the USPTO to acknowledge the same. Although the application was abandoned and the amendment filed November 1, 2005, was untimely, the examiner assigned to this application entered the amendment and issued a final Office action therefrom on February 15, 2006. It is noted that applicant has filed a Notice of Appeal in the application. The instant petition is being treated as a petition to withdraw the holding of abandonment because the application is abandoned by operation of law.

The petition to withdraw the holding of abandonment is granted as petitioner has established that the non-final Office action mailed January 6, 2005, was mailed to an incorrect address. The holding of abandonment is withdrawn, accordingly.

Further inquiries regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 2100, GAU 2155, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions